



Sen. Kirk W. Dillard

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1 AMENDMENT TO SENATE BILL 339

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 339 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Citizen Participation Act.

6 Section 5. Public policy. Pursuant to the fundamental  
7 philosophy of the American constitutional form of government,  
8 it is declared to be the public policy of the State of Illinois  
9 that the constitutional rights of citizens and organizations to  
10 be involved and participate freely in the process of government  
11 must be encouraged and safeguarded with great diligence. The  
12 information, reports, opinions, claims, arguments, and other  
13 expressions provided by citizens are vital to effective law  
14 enforcement, the operation of government, the making of public  
15 policy and decisions, and the continuation of representative  
16 democracy. The laws, courts, and other agencies of this State  
17 must provide the utmost protection for the free exercise of  
18 these rights of petition, speech, association, and government  
19 participation.

20 Civil actions for money damages have been filed against  
21 citizens and organizations of this State as a result of their  
22 valid exercise of their constitutional rights to petition,  
23 speak freely, associate freely, and otherwise participate in  
24 and communicate with government. There has been a disturbing

1 increase in lawsuits termed "Strategic Lawsuits Against Public  
2 Participation" in government or "SLAPPs" as they are popularly  
3 called.

4 The threat of SLAPPs, personal liability, and burdensome  
5 litigation costs significantly chills and diminishes citizen  
6 participation in government, voluntary public service, and the  
7 exercise of these important constitutional rights. This abuse  
8 of the judicial process can and has been used as a means of  
9 intimidating, harassing, or punishing citizens and  
10 organizations for involving themselves in public affairs.

11 It is in the public interest and it is the purpose of this  
12 Act to strike a balance between the rights of persons to file  
13 lawsuits for injury and the constitutional rights of persons to  
14 petition, speak freely, associate freely, and otherwise  
15 participate in government; to protect and encourage public  
16 participation in government to the maximum extent permitted by  
17 law; to establish an efficient process for identification and  
18 adjudication of SLAPPs; and to provide for attorney's fees and  
19 costs to prevailing movants.

20 Section 10. Definitions. In this Act:

21 "Government" includes a branch, department, agency,  
22 instrumentality, official, employee, agent, or other person  
23 acting under color of law of the United States, a state, a  
24 subdivision of a state, or another public authority including  
25 the electorate.

26 "Person" includes any individual, corporation,  
27 association, organization, partnership, 2 or more persons  
28 having a joint or common interest, or other legal entity.

29 "Judicial claim" or "claim" include any lawsuit, cause of  
30 action, claim, cross-claim, counterclaim, or other judicial  
31 pleading or filing alleging injury.

32 "Motion" includes any motion to dismiss, for summary  
33 judgment, or to strike, or any other judicial pleading filed to

1 dispose of a judicial claim.

2 "Moving party" means any person on whose behalf a motion  
3 described in subsection (a) of Section 20 is filed seeking  
4 dismissal of a judicial claim.

5 "Responding party" means any person against whom a motion  
6 described in subsection (a) of Section 20 is filed.

7 Section 15. Applicability. This Act applies to any motion  
8 to dispose of a claim in a judicial proceeding on the grounds  
9 that the claim is based on, relates to, or is in response to  
10 any act or acts of the moving party in furtherance of the  
11 moving party's rights of petition, speech, association, or to  
12 otherwise participate in government.

13 Acts in furtherance of the constitutional rights to  
14 petition, speech, association, and participation in government  
15 are immune from liability, regardless of intent or purpose,  
16 except when not genuinely aimed at procuring favorable  
17 government action, result, or outcome.

18 Section 20. Motion procedure and standards.

19 (a) On the filing of any motion as described in Section 15,  
20 a hearing and decision on the motion must occur within 90 days  
21 after notice of the motion is given to the respondent. An  
22 appellate court shall expedite any appeal or other writ,  
23 whether interlocutory or not, from a trial court order denying  
24 that motion or from a trial court's failure to rule on that  
25 motion within 90 days after that trial court order or failure  
26 to rule.

27 (b) Discovery shall be suspended pending a decision on the  
28 motion. However, discovery may be taken, upon leave of court  
29 for good cause shown, on the issue of whether the movants acts  
30 are not immunized from, or are not in furtherance of acts  
31 immunized from, liability by this Act.

32 (c) The court shall grant the motion and dismiss the

1 judicial claim unless the court finds that the responding party  
2 has produced clear and convincing evidence that the acts of the  
3 moving party are not immunized from, or are not in furtherance  
4 of acts immunized from, liability by this Act.

5 Section 25. Attorney's fees and costs. The court shall  
6 award a moving party who prevails in a motion under this Act  
7 reasonable attorney's fees and costs incurred in connection  
8 with the motion.

9 Section 30. Construction of Act.

10 (a) Nothing in this Act shall limit or preclude any rights  
11 the moving party may have under any other constitutional,  
12 statutory, case or common law, or rule provisions.

13 (b) This Act shall be construed liberally to effectuate its  
14 purposes and intent fully.

15 Section 35. Severability. The provisions of this Act are  
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.".